

BEFORE THE

## Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of )

MM Docket No. 93-94SCRIPPS HOWARD BROADCASTING )  
COMPANY )

File No. BRCT-910603KY

For Renewal of License of )  
Station WMAR-TV, )  
Baltimore, Maryland )

and )

FOUR JACKS BROADCASTING, INC. )

File No. BPCT-910903KE

For a Construction Permit for )  
Television Facility on )  
Channel 2 at )  
Baltimore, Maryland )To: The Honorable Richard L. Sippel  
Administrative Law JudgeMOTION TO STRIKE

Four Jacks Broadcasting, Inc. ("Four Jacks"), by its attorneys, hereby moves to strike the June 3, 1993 Engineering Report of Matthew J. Vlissides which is attached to the Consolidated Reply to Oppositions to Motion to Enlarge Issues Related to Tower Site filed by Scripps Howard Broadcasting Company ("Scripps Howard") on June 8, 1993, and all references to that report contained in the Scripps Howard Reply.

1. Scripps Howard readily admits that its June 8, 1993 reply contains new material -- namely a revised report by Mr. Vlissides. (Reply, p. 6). It is well established that reply

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pleadings may not contain new material. In Industrial Business Corp., 26 R.R.2d 1447 (Rev. Bd. 1973), the Review Board dismissed a reply pleading to the extent that it contained new material.<sup>1/</sup>

The petitioner will not be permitted to attempt to cure an otherwise defective petition where information contained in its reply pleading was readily available and could have been included in the original petition to enlarge issues. To allow the reply to thus serve the purpose of the original petition would be to either (a) effectively render meaningless provisions in the rules for a fair opportunity by another party to respond to allegations or (b) compel the addition of supplementary pleadings not ordinarily contemplated by the rules. . . . Orderliness, expedition and fairness in the adjudicatory process require that reasonable procedural limits be established and maintained; here, those limits have been exceeded.

26 R.R.2d at 1450-51.

2. Mr. Vlissides' latest study is the third edition. He originally filed his engineering report with Scripps Howard's Petition to Deny. It was revised and filed for a second time with Scripps Howard's Motion to Enlarge Issues. Scripps Howard should not be permitted to cure two defective reports with yet a third report at this late stage.<sup>2/</sup>

For the foregoing reasons, all portions of Scripps Howard's Consolidated Reply to Oppositions to Motion to Enlarge Issues

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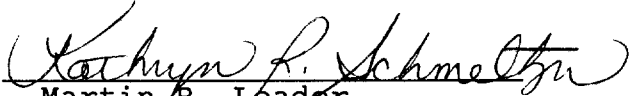
<sup>1/</sup> Sections 1.45 and 1.294 state that replies "shall be limited to matters raised in the oppositions."

<sup>2/</sup> In the unlikely event that the Judge decides to consider the third revised report, Four Jacks reserves the right to file a further reply.

Related to Tower Site pertaining to the Vlissides report and the report itself should be stricken.

Respectfully submitted,

FOUR JACKS BROADCASTING, INC.

By:   
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Gregory L. Masters

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Dated: June 8, 1993

3070-014.P18

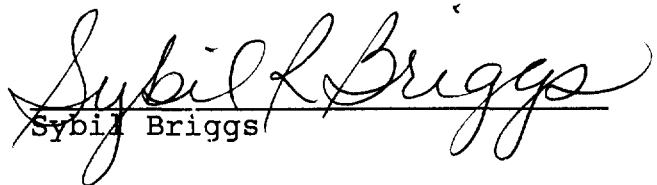
CERTIFICATE OF SERVICE

I, Sybil Briggs, a secretary in the law firm of Fisher, Wayland, Cooper and Leader, do hereby certify that true copies of the foregoing "MOTION TO STRIKE" were sent this 10th day of June, 1993, by first class United States mail, postage prepaid, to the following:

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\*By Hand